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**REPUBLIC OF KENYA**  
**MACHAKOS COUNTY ASSEMBLY**

**OFFICIAL REPORT**

**Wednesday, 7<sup>th</sup> June, 2017**

The House met at 10.05 a.m.

*[The Speaker (Hon. Mung'ata) in the Chair]*

**PRAYERS**

**Hon. Speaker:** Good morning Hon. Members. Let us proceed.

**PAPERS LAID**  
ASSEMBLY BROADCASTING POLICY REPORT

**Hon. Speaker:** Yes Hon. Raphael.

**Hon. R. Mutuku:** Mr. Speaker, Sir, I beg to lay the following paper on the table of the Assembly today, 7<sup>th</sup> June, 2017: the report of the Broadcasting committee on adoption of Machakos County Assembly broadcasting policy. Thank you, Mr. Speaker, Sir.

**Hon. Speaker:** Thank you. The paper is laid. Proceed.

**REPORT ON INSPECTORATE OFFICERS' PETITION**

**Hon. (Ms.) Ndinda:** Mr. Speaker, Sir, I beg to lay the following paper on the table of the Assembly today, 7<sup>th</sup> June, 2017: the report on inspectorate officers' petition. Thank you, Mr. Speaker, Sir.

**Hon. Speaker:** Thank you. The paper is laid. Proceed.

**NOTICES OF MOTIONS**  
ASSEMBLY BROADCASTING POLICY REPORT

**Hon. R. Mutuku:** Mr. Speaker, Sir, I wish to give notice of the following motion: that this Hon. House discusses and approves the report of the Broadcasting committee on adoption of

Machakos County Assembly broadcasting policy as laid today, 7<sup>th</sup> June, 2017. Thank you, Mr. Speaker, Sir.

**Hon. Speaker:** Thank you. Notice is issued. Proceed.

#### REPORT ON INSPECTORATE OFFICERS' PETITION

**Hon. Ms. Ndinda:** Mr. Speaker, Sir, I wish to give notice of the following motion: that this Hon. House discusses and approves the *ad hoc* committee report on inspectorate officers' petition as laid today, 7<sup>th</sup> June, 2017. Thank you, Mr. Speaker, Sir.

**Hon. Speaker:** Thank you. Notice is issued. Proceed.

#### MOTIONS

##### ASSEMBLY BROADCASTING POLICY REPORT

**Hon. R Mutuku:** Mr. Speaker, Sir, with your permission, I will proceed to move the motion:

That aware THAT Article 10 of the Constitution provides that the national values and principles of governance bind all state organs, officers and persons when interpreting the Constitution and when implementing public policy decisions;

Further, aware THAT the County Assembly of Machakos, being a constitutional body established under article 176(1) and 177 of the Constitution, is a state organ and hence is bound by the national values and principles of governance.

Mr. Speaker, Sir, aware THAT the Assembly Broadcasting and Library committee was established under the County Assembly of Machakos Standing Order 222 which mandates the committee to consider and report on all matters relating to broadcasting of assembly proceeding which requires reporting on rules, policies and procedures and any other matter relating to broadcasting in plenary, committee and events;

Mr. Speaker, Sir, I wish to move the motion THAT this Hon. House discusses and approves the report of the Broadcasting and Library committee on the County Assembly Broadcasting Policy.

Thank you, Mr. Speaker, Sir. I call upon Hon. Penina Kaluki to second the motion.

**Hon. (Ms.) Kaluki:** Mr. Speaker, Sir, I second the motion that this House discusses and approves the report on adoption of the broadcasting policy. Article 35 of the Constitution of Kenya, 2010 gives right to citizens to access of information which is held by a state or another person, and since this policy is to give guidance and assistance in passing such information, I urge the House to pass and approve the report as presented to this House. Thank you, Mr. Speaker.

**Hon. Speaker:** Thank you. The motion is properly laid. Proceed with the report.

**Hon. R Mutuku:** Thank you Mr. Speaker, Sir. I will proceed to take members through the report.

Article 10 of the Constitution of Kenya, 2010 provides that the national values and principles of governance bind all state organs, officers and persons when interpreting the Constitution and when making or implementing public policy decisions. These values include the rule of law, participation of the people and transparency. Article 35 recognizes that every citizen has a right of access to information which is held by the State or another person which is further effected by the Access to Information Act No. 31 of 2016.

The County Assembly of Machakos, being a constitutional body established by Article 176(1) and 177 of the Constitution, is a state organ and hence is bound by the national values and principles of governance. To ensure effective performance of its duties, various committees, regulated by the Assembly Standing Orders, are constituted and must conduct their business in an open manner and facilitate public participation and involvement in their activities, except in special circumstances that are justifiable.

Mr. Speaker, Sir, the Assembly Broadcasting and Library committee was established under the County Assembly of Machakos Standing Order No. 222 to counter the lack of awareness said to be accompanied by a general public opinion that Parliament is an opaque institution devoid of transparency and accountability.

The committee was formed in November, 2016, the argument being that the committee would create an avenue that would lead to greater public awareness and appreciation of the work of the County Assembly, better public attitude and perception towards parliament and greater involvement of the public in Parliamentary debates, hence helping in making politicians more accountable.

Mr. Speaker, Sir, the Assembly Broadcasting and Library committee is mandated to undertake the following duties:-

1. Consider and report on all matters relating to broadcasting of Assembly proceedings. These include reporting on rules, policies and procedures and any other matters relating to broadcasting in plenary, committees and events.
2. Advise the Assembly on matters related to public participation in the Assembly. It is the duty of the committee to formulate guidelines to be followed when it comes to public participation in Assembly business.
3. Make reports and recommendations to the Assembly, including proposed legislation on matters relating to broadcasting of Assembly proceedings and related matters.
4. Recommend to and advise the Assembly on matters related to the provision of library, publications and research services in the Assembly. These include recommendations on how to ease access to available information, holding sensitization forums on services available to the members and the general public among other recommendations.
5. Assist members of the County Assembly in utilizing the facilities provided by the library and research services including the use of information and communication technology.

This refers to offering assistance in utilizing different tools to access both internal and external information on the Assembly as well as promoting uptake of the systems in place.

Mr. Speaker, Sir, the committee comprises of the following Hon. Members:-

1. Hon. Bernard Mung'ata - Chairperson
1. Hon. Raphael Mutuku - Vice Chairperson
2. Hon. Timothy Kilonzo - Member
3. Hon. (Ms.) Penina Kaluki - Member
4. Hon. Wilson Kasimu - Member

The Assembly Broadcasting Unit is established under the Third Schedule of the County Assembly of Machakos' Standing Orders which is an appendage of Standing Order 222. The Assembly Broadcasting Unit comprises of the following staff members:-

1. Luiza Kamau.
2. Paul Keli.
3. Emmah Nthenya.
4. Norah Mwendwa.

One of the responsibilities of the unit is to assist the Broadcasting committee in developing a policy to provide guidelines on how the Assembly proceedings shall be regulated both internally and externally in accordance with the Constitution, County Governments Act, Access to Information Act, Fair Administrative Action Act, the County Assembly Standing Orders, the Speaker's Rules and other written laws.

The Broadcasting and Library committee made several observations that led to developing of the Broadcasting Policy. These include:-

1. Unregulated coverage of proceedings by media personnel. For example, it was noted that due to lack of proper regulation, the media was taking photographs and footage that is likely to cause embarrassment to Members of the County Assembly.
2. Furthermore, it was noted that the media personnel and members of the public were likely to infringe on the rights of the Members without the Members' knowledge. Therefore, this policy will serve as a guide to Members on their rights when it comes to broadcasting of their activities within the precincts of the Assembly.
3. The need to create greater public awareness and appreciation of the work of Parliament, and enhance better public attitude and perception towards the County Assembly.
4. The Members did not understand the types of shots which should be taken inside the chamber, hence the need to sensitize them. For instance, it is against the policy for media personalities to take close up shots of documents being used by Members or witnesses during debate or investigations.

5. There was no clear structure for the honorable members, staff, the public and the media on the procedure to be followed when one needs to access footage or broadcast the proceedings of the House and the committees.

The Broadcasting Policy provides clear guidelines on how the Assembly proceedings are to be broadcast both in the committees and in the House. Further, it also provides for the procedure to be used where strangers violate and infringe the provisions of the policy. The policy contains:

1. The guidelines to be followed by the Assembly broadcasting unit when broadcasting the committee and plenary proceedings.
2. Principles relating to broadcasting of proceedings.
3. Conditions for approval of media related activities.
4. Media coverage of the committee and assembly proceedings.
5. Editing and broadcasting of the Proceedings.
6. Monitoring and archiving as well as the procedure to be followed in cases of non-compliance with the policy.

#### *Rationale for the Policy*

Mr. Speaker, Sir, the debates from the County Assembly of Machakos should be made available to broadcasters by the Assembly Broadcasting Unit. The policy is issued by the Presiding Officer, under the authority of Standing Order 222 of the County Assembly of Machakos read together with the Third Schedule of the Standing Orders. The policy operates in conjunction with the resolutions of the County Assembly and the Broadcasting and Library Committee of the County Assembly.

Mr. Speaker, the policy provides a framework for filming activities within the County Assembly and its precincts, and is underpinned by the following principles—

- (a) Openness and accessibility of the House;
- (b) Facilitation of fair and accurate reporting by the media of Assembly proceedings; and
- (c) Non-interference with the operations of the House or the ability of the Speaker, Members, and other authorized persons to fulfill their duties.

The policy applies to all authorized persons and visitors to the Assembly precincts.

#### *Further Recommendations*

The committee recommends that in addition to the annexed policy, the following recommendations be approved:-

1. The members proposed that all interviews for members should be done with the approval of the Speaker to prevent unauthorized media personnel from giving wrong information.
2. Members of the Press should provide their accreditation to the Assembly through the media houses they represent to avoid cases of fake or rogue journalists engaging in unprofessional conduct within the Assembly precincts.
3. A clear structure should be set on the procedure of accessing information.

4. Members should be sensitized on how to handle themselves in the chamber to avoid embarrassment.
5. The process of live streaming and broadcasting of the assembly proceedings should be fast-tracked for easy access of the assembly proceedings both internally and externally.

The Broadcasting and Library committee would like to thank the Office of the Speaker and that of the Clerk to the County Assembly for the support accorded during the drafting of this policy. I wish to express my appreciation to the Honorable members and staff who selflessly participated in the drafting of the Broadcasting policy. It is therefore my privilege, on behalf of the broadcasting committee, to table this report and broadcasting policy and recommend it to this Honorable House for adoption.

**Hon. Speaker:** Thank you. The report is now laid. Hon. Members, looking at the attached policy, I think it is only fair to give members time to go through the policy and I direct that the matter be deliberated on Tuesday.

*(Applause)*

Let me allow you more time to appreciate.

*(Applause)*

Thank you. Let us proceed.

#### REPORT ON INSPECTORATE OFFICERS' PETITION

**Hon. (Ms.) Ndinda:** Mr. Speaker, Sir,

Aware THAT a petition by Mavoko inspectorate officers on various issues including salary arrears, not being issued with appointment letters, poor working conditions and discrimination was received in the Assembly on 22<sup>nd</sup> February, 2016 and was tabled in the Assembly on 24<sup>th</sup> of the same month;

Aware THAT the petition was committed to the Labour, Public Service and ICT Committee pursuant to Standing Order 201(1);

Aware THAT the committee report was tabled in the House on 14<sup>th</sup> June 2016;

Remembering THAT members debated on the report and felt that the report needed more input;

Aware THAT the Chair directed that an ad-hoc committee of seven members be constituted for more investigation with an aim of coming up with an amicable solution to the existing problems;

Further aware THAT on 30<sup>th</sup> May, 2017, a motion was moved in the Assembly urging the members to discuss and approve that the inspectorate officers

dismissed while on strike demanding for their appointment letters be recruited afresh and be paid the outstanding dues;

Acknowledging THAT Article 41 of the Constitution of Kenya stipulates clearly that on labor relations, every person has the right to fair labour practices, fair remuneration and to reasonable working conditions;

Aware THAT Article 10 of the Constitution of Kenya sets out the national values and principles of governance that bind all state officers, state organs, public officers and all persons whenever they apply the Constitution and the national principles of governance include rule of law, equity, inclusiveness, equality, non-discrimination, transparency, accountability, democracy and participation of people;

Mr. Speaker, Sir, I wish to move the motion that this Hon. House discusses and approves the *ad hoc* committee report on the inspectorate officers' petition.

Thank you Mr. Speaker, Sir. I beg to call Hon. Joseph Itumo to second.

**Hon. Itumo:** I second the motion that has been laid by Hon. Mary Ndinda. Mr. Speaker, I must repeat that sometime back, I said in this Hon. House that we must have teeth to bite. I know once we are taken through the report, it is a report that is going to touch most of us. I would like all the members to be attentive and careful as we go through the report because it does not even smell; it stinks. Thank you, Mr. Speaker.

**Hon. Speaker:** Thank you. Proceed with the report, Hon. Mary.

**Hon. (Ms.) Ndinda:** Mr. Speaker Sir, on behalf of the *ad hoc* Committee investigating a petition by Mavoko Inspectorate Officers and all other inspectorate officers within the County, I hereby present to this House, the committee's report.

Mr. Speaker Sir, the petition was brought to the attention of this Assembly by 29 petitioners from the department of Decentralized Units on 22<sup>nd</sup> February, 2016 and tabled in the Assembly on 24<sup>th</sup> February, 2016. The petition was committed to the committee of Labour, Public Service and ICT pursuant to Standing Order 201 which provides that every petition presented or reported pursuant to this part shall stand committed to the relevant sectoral committee.

The Labour, Public Service and ICT committee tabled its report on the petition on 14<sup>th</sup> June, 2016. The House discussed the petition and felt that the report was inconclusive. Hon. Members observed that inspectorate officers from all sub-counties were facing similar problems to those faced by the inspectorate officers from Mavoko sub-county. Hon. Members called for the scope of the report to be enhanced to cover the whole County. The House resolved that the petition be referred to a seven member *ad hoc* committee for more investigations with a view of coming up with an amicable solution to the existing problems in the county.

Mr. Speaker, Sir, an *ad hoc* committee was constituted on 23<sup>rd</sup> June, 2016 as directed by the Speaker to investigate, inquire into and report on issues raised by Mavoko Inspectorate Officers. These issues include: salary arrears, non-issuance of appointment letters, poor working

conditions and discrimination. The committee was to submit its report within the first week of August, 2016. The committee requested for an extension of time to enable it finalize on some issues which were of great importance regarding the report and the request was granted.

Mr. Speaker, Sir, the committee tabled an initial report in the House on the petition whereby Hon. Members raised some concerns. Hon. Members observed that recruitment of inspectorate officers had been marred with a lot of irregularities and some Chief Officers had recruited their relatives and close friends. Hon. Members requested the committee to provide information on each inspectorate officer concerning the work station, name, national identification number, home county and sub-county.

Mr. Speaker, Sir, it is significant to mention that the purpose of the approval of this report is to protect the current and future workforce and enhance the process of law making in the County Government of Machakos. The committee hopes that this report will assist in entrenching the independence of the County Public Service Board (CPSB) as espoused in Section 75 of the County Governments Act, 2012.

Mr. Speaker, Sir, on 30<sup>th</sup> May, 2017, a motion was moved in the Assembly urging the House to discuss and approve that the inspectorate officers dismissed while on strike demanding for their appointment letters be recruited afresh and be paid their outstanding dues. The House discussed the motion where Hon. Members observed that recruitment of inspectorate officers had not been conducted properly. Members added that after being dismissed, the officers had gone to court and it was not prudent for the House to continue discussing a matter that was in court.

The Hon. Speaker directed that he will give a ruling on the matter the following day on 31<sup>st</sup> May, 2017. The Chair ruled that the *ad hoc* committee handling the petition on inspectorate officers to investigate the matter consider the motion and the matter of the court case and report to the House on Wednesday, 7<sup>th</sup> June, 2017.

In line with the provisions of the Constitution of Kenya, Machakos County Standing Orders and Labour Laws, the terms of reference of the *ad hoc* committee with respect to the petition submitted by inspectorate officers are to inquire into:-

- (a) Whether the allegations made by the petitioners against the County Public Service Board and Decentralized Units department are substantiated;
- (b) If the allegations are found to have been substantiated, whether the allegations constitute a breach of the Labour Laws; and
- (c) The appropriate recommendations to make including, if applicable, the disciplinary action to be taken.

The committee, in the execution of its mandate, was guided by the provisions of the Act and Standing Orders of Machakos County.

Mr. Speaker, Sir, the committee as constituted by this Hon. Assembly comprises of the following members:-

- |                                 |                 |
|---------------------------------|-----------------|
| 1. Hon. (Ms.) Mary Ndinda       | - Chairman      |
| 2. Hon. Joseph Itumo            | - Vice Chairman |
| 3. Hon. (Ms.) Catherine Nguluku | - Member        |
| 4. Hon. Justus Kimata           | - Member        |
| 5. Hon. (Ms.) Jacqueline Nziva  | - Member        |



6. Hon. Leonard Katela - Member
7. Hon. (Ms.) Veronica Mbithe - Member

Mr. Speaker, Sir, the petition for the Mavoko inspectorate officers (constables) was done by 29 petitioners who work at Machakos County. Their petition was as follows:-

1. That they were recruited to the Machakos County way back on 13<sup>th</sup> September, 2013 as per records held by department of Decentralized Units – inspectorate office Machakos Headquarters, Department of Public Service, Labour and ICT and the Public Service Board, Machakos County Government
2. The officers had never received any appointment letters of employment.
3. The officers had never received confirmation letters of employment.
4. Up to date, the Machakos County Government owes the officers salary arrears ranging from six months and above which are due for payment.
6. The inspectorate officers work under poor conditions, that is, they have never been issued with uniforms and other such items necessary for performance of their duties.

The Petitioners prayers;

1. To be appointed and confirmed in their respective employment without discrimination or victimization of any kind.
2. Their due salary arrears be paid in time to enable them survive like other employees.

Mr. Speaker, Sir, the *ad hoc* committee, in deliberating on issues raised by the petitioners, committee held a total of 14 sittings and received both oral and written submissions from the petitioners, Chief Officer - Decentralized Units and Chairperson, County Public Service Board. When the County Public Service Board was called for interrogations, they responded as follows:

The human resource department of the Decentralized Units department is structured in the following manner:

1. Constitutional - as contained in the County Governments Act, 2012
  - a) Sub –County Administrator
  - b) Ward Administrator
  - c) Village Administrator
  - d) Village Elders
2. Operational – as proposed by the Executive
  - a) Deputy Sub County Administrator
  - b) Chief Inspector
  - c) Inspector II
  - d) Inspectorate officers

In 2014, the department of Decentralized Units submitted requests to the board as follows:

A) The recruitment to the following posts:

- i. Sub County Administrator
- ii. Deputy Sub- county Administrator
- iii. Chief Inspector
- iv. Inspector II

B) Authority to recruit the following:

- i. 140 drivers for newly purchased security vehicles
- ii. 50 low level inspectorate officers.
- iii. 30 County Inspectorate band

In response, the Board said that those officers who were competitively sourced and are legally in the payroll were:-

- i. 8 Sub County administrators
- ii. 8 Deputy Sub County Administrators
- iii. 40 chief Inspectors
- iv. 50 Inspector II

The County Public Service Board gave authority to the County Secretary (which was the only legally constituted office at that time) with specific conditions for the recruitment of 140 drivers. The Board further authorized the County Executive Committee Member for Decentralized Units to recruit 50 low-cadre inspectorate staff and 30 county inspectorate band service men and women.

In delegating the authority to recruit, the Board also required the delegates to submit to the Board a recruitment report to facilitate ratification of the same. The delegates never responded to the Board with recruitment returns as directed despite various entreaties.

In April, 2014, the Board formally requested for these returns from the County Secretary who in turn requested the same from the Acting Chief Officer, Decentralized Units. In a seeming response to the above, the Board received communication from the then Acting Chief Officer, Public Service, Labour and ICT forwarding a list of 162 drivers explaining the additional 22 persons. At the same time, it appeared from correspondence that the Acting Chief Officer, Public Service, Labour and ICT had, without Board's authority, caused these persons to be placed in the payroll.

The Board immediately responded to the Acting Chief Officer, Public Service, Labour and ICT, requesting for clarification as to the recruitment process as well as pertinent details of the recruited persons. In early May 2014, it came to the attention of the Board that some 41 persons had been recruited as dog-handlers and in total disregard of the laid down procedure and the Acting Chief Officer, Public Service Labour and ICT had authorized their inclusion into the payroll without Board authority. The Board required the County Secretary and Head of Public Service to investigate and report to the Board within a given time line.

Receiving no response on the two irregular recruitments and inclusion in the payroll of the 162 drivers and 41 dog handlers, the Board, after analysis of the lists, again wrote to the County Secretary querying observed anomalies *vis-a-vis* the recruitment guidelines given. No response was ever received by the Board on the above and the matter pended for a while until a change of guards was effected in the department of Decentralized Units.

In May, 2015, the Board held a consultative meeting with the County Executive Committee Member for Decentralized Units, County Executive Committee Member for Finance, the then Chief Officer, Decentralized Units among others. This meeting was an effort to try and get clarity to the issue of staffing in the Decentralized Units with a view of sorting out the perceived confusion regarding staffing of the inspectorate unit.

During the meeting, it was proposed that the Board, in exercise of its oversight mandate granted by Section 75 of the County Governments Act, 2012, carry out an urgent audit of the casual workers under the Decentralized Units first to get an idea on the structure of these casuals and propose solutions to address the quagmire.

The Board was to develop a budget for the County Executive Committee Member for Finance to facilitate. The Board forwarded to the County Executive Committee Member for Finance the itemized budget in September 2015. To date, this budget has to be funded and therefore the situation remains unresolved.

Mr. Speaker, Sir, as at 8<sup>th</sup> May, 2017, the department of Decentralized Units and County Administration reported that the County had a total of 447 inspectorate officers who are distributed as follows:-

1. Machakos sub county – 172 officers
2. Mavoko sub county – 98 officers
3. Masinga sub county – 28 officers
4. Mwala sub county – 27 Officers
5. Kathiani sub county – 20 officers
6. Kangundo sub county – 34 officers
7. Matungulu sub county- 51 officers
8. Yatta sub county – 26 Officers
9. Inspectorate officers attached to revenue office from defunct local authority – 12

Mr. Speaker, Sir, on 31<sup>st</sup> May, 2017 the committee received a report from the Chief Officer, Decentralized Units and County Administration indicating that the County Public Service Board on 22<sup>nd</sup> February 2017 had put an internal advertisement requiring the inspectorate officers to apply for 340 positions within the service. The purpose of this exercise was to enable the County Public Service Board issue appointment letters to the officers.

Mr. Speaker, Sir, the committee observed the following:

1. That the petitioners started working as inspectorate constables in the year 2013, they were to get their appointment letters once the CPSB was constituted and that they are the bona-fide officers who perform the day to day functions of inspectorate constables.
2. That there were several inspectorate officers in the department of Decentralized Units who were above sixty years contrary to the required age of service.
3. That most of the inspectorate officers lacked uniform, appointment letters, confirmation letters and were not well remunerated.
4. The committee noted that the salary payable of Kshs.12, 000 per month was very minimal and that no statutory deductions such as NHIF were applicable to them. It was also noted that

their current salary of Kshs.12, 000 classified them as solid waste collectors and not as inspectorate officers.

5. The committee observed the environment in which the officers were working was poor to a point that one officer had his finger chopped off in the line of duty and neither compensation nor medication was offered to him.
6. The committee noted that from January 2017, none of the officers had been paid and that they had salary arrears of six months and in their efforts to get paid, they were told that the County Assembly had to budget for their arrears.
7. The petitioners informed the committee of unfair practices and intimidation at their work stations.
8. The officers complained that their money was being deposited in their various accounts through M-Pesa and when they get their bank statements, they realize that though money had been deposited, they could not access the same by use of their ATMs. On asking the bank operations manager, they are redirected to their employer and this has occasioned to big sums of arrears and discomfort.

Mr. Speaker, Sir, the *ad hoc* committee on inspectorate officers embarked on investigating the issues raised by Hon. Members on 31<sup>st</sup> May, 2017. The committee expanded its terms of reference to address the motion as follows:-

- (a) Establish whether the inspectorate officers had been dismissed from work and whether there was an internal advertisement requesting the inspectorate officers to re-apply for employment.
- (b) Whether there was a pending court case concerning the inspectorate officers.
- (c) Make recommendations to the House on the matter of the motion.

Mr. Speaker, Sir, the committee resolved to invite two officers representing those dismissed by the County Government and also two representatives of County Government Workers Union, Machakos branch, to assist in gathering facts about the issues raised in the motion. The committee retreated to Naivasha from 1<sup>st</sup> to 3<sup>rd</sup> June, 2017 to hasten the process. Two representatives of the union and two of the dismissed officers joined the committee during the retreat.

Mr. Speaker Sir, the committee gathered the following:-

1. That 340 inspectorate officers were dismissed from work after engaging in a strike on 7<sup>th</sup> March, 2017 demanding payment of their salaries and appointment letters. The officers received information to apply for their jobs through a Whatsapp message which referred to the internal advertisement on 22<sup>nd</sup> February, 2017.
2. That the County Public Service Board issued an internal advertisement for 340 posts of inspectorate enforcement officers in the department of Decentralized Units, County Coordination and Administration to be filled by competent and qualified persons within the service as per Article 176 of the Constitution of Kenya and Sections 45, 50 and 51 of the County Governments Act. The officers were to be appointed on a one year contract. 160

inspectorate officers applied for the jobs, were interviewed and given appointment letters engaging them on permanent basis after conclusion of 6 months of probation.

3. That the County Government Workers Union had gone to court to protect their members from being sacked for striking demanding for their rights. There is a case in Employment and Labour Relations Court, Petition No. 23 of 2017. The petition is between the Kenya County Government Workers Union and County Government of Machakos as the first respondent and the Machakos County Public Service Board as the second respondent.
4. The court issued an injunction restraining the respondents from terminating its engagement with the applicant's members. In addition, pending hearing and determination of the petition, the respondents were restrained from victimizing the petitioner's members and also not to employ officers to replace the petitioner's members.

Mr. Speaker, Sir, the committee was informed that some officers who were employed after applying for the advertised jobs have not been receiving their salaries. In this regard, the Kenya County Government Workers Union, Machakos branch had issued a strike notice that was intended to start on 29<sup>th</sup> May, 2017 to demand for salary arrears, leave and transfer allowances among other grievances. However the intended strike was called off.

The committee was also informed that the inspectorate officers have been facing discrimination, victimization and favoritism and that is why most of the officers (about 180) did not apply for the advertised positions. The officers who did not apply feared that they would lose their past benefits since they started working in 2013 while others had earlier worked for the defunct local authorities. The officers also feared victimization whereby they viewed the exercise would send home their friends who were from the neighboring counties.

Further, the committee was informed that there were officers who did not apply for the advertised jobs but were still receiving their salaries. The committee was also informed that the officers were not facilitated when sent to the field to work. They did not receive overtime payment for working beyond the normal working hours and on weekends. In addition, the committee was informed that the department of Decentralized Units has been disregarding the Court petition and arresting those officers who report to work and barring them from assessing office.

Mr. Speaker, Sir, the committee observed that inspectorate officers worked under a stressful environment and calls for intervention. The committee also observed that the inspectorate officers who did not apply for the advertised jobs had been misled by some union officials. The committee learnt that all inspectorate officers working in Mavoko were advised by their commandant, who was also an official of the union, to apply for the advertised jobs and all received appointment letters.

Mr. Speaker, Sir, Article 41 of The Constitution of Kenya stipulates clearly that on Labour Relations, (1) Every person has the right to fair labour practices; and (2) Every worker has the right to fair remuneration and to reasonable working conditions. Article 10 of the Constitution of Kenya sets out the national values and principles of governance that bind all state officers, state organs, public officers and all persons whenever they apply the Constitution. The

National principles of governance include rule of law, equity, inclusiveness, equality, non-discrimination, transparency, accountability, democracy and participation of people.

Mr. Speaker, Sir, the committee noted that failure to pay the petitioners and subjecting them to poor working conditions was against the above laws and as such, makes the following recommendations:-

1. That the Board exercises its mandate and invokes Section 75 of the County Governments Act, 2012 to urgently undertake an audit and workload analysis of the workers under the department of Decentralized Units with a view to identifying anomalies that need corrections and other actions as prescribed in the County Governments Act which may include, but not limited to, nullifying the whole recruitment process or repeating the recruitment process in collaboration with the relevant departments.
2. That disciplinary action be taken against the officer or officers involved in contravening the labour laws.
3. That the inspectorate officers should be paid all their arrears and issued with appointment letters as soon as possible, that is within two months after approval of this report.
4. That all statutory deductions should be remitted as required by law.
5. That the officer whose finger was chopped off in the line of duty should be compensated reasonably by the County Government.
6. That intimidation and discrimination are unlawful and therefore any officer found exercising the same to be punished in line with Labour Laws.
7. That the inspectorate officers should be provided with uniforms, working tools and their payment cadre should be equivalent to that of inspectorate officers rather than that of solid waste collectors. The officers should also be adequately facilitated when they work at odd hours, that is from 6.00 a.m. to 8.00 a.m. and from 5.00 p.m. to 6.00 p.m. and provided with transport when sent to work in the field.
8. That the County Government, department of Decentralized Units and the County Public Service Board adhere to the orders issued in the Court petition No. 23 of 2017 pending the ruling by the court.
9. That the County Government, Department of Decentralized Units and the County Public Service Board should hold a reconciliatory meeting with all the inspectorate officers and their union representatives and chart the way forward.

Mr. Speaker, Sir, the committee is grateful to the office of the Speaker and that of the Clerk to the County Assembly for the support accorded during the committee sittings. I wish to express my appreciation to the Hon. Members of the committee who sacrificed their time to participate in the activities of the committee and in preparation of this report.

Mr. Speaker, Sir, It is therefore my pleasure and privilege, on behalf of the ad-hoc committee, to table this report of the inspectorate officers' (constables') petition in this Hon. House for consideration and adoption. Thank you Mr. Speaker, Sir,

**Hon. Speaker:** Thank you very much. Hon. Members, the report is properly laid and is now available for deliberation. The nature of this report as I have said variously is in the nature

of a petition. It is governed by Standing Order 201 and I wish to read the provision, sub-Article 2 ‘whenever a petition is committed to a sectoral committee, the committee shall, in not more than 60 calendar days from the day of reading the prayer, respond to the petitioner by way of a report addressed to the petitioner or petitioners and laid on the table of the Assembly and no debate on or in relation to the report shall be allowed, but the Speaker, may, in exceptional circumstances, allow comments or observations in relation to the petition for not more than 20 minutes. Thereafter, the Clerk shall within fifteen days of the decision of the Assembly, in writing, notify the petitioner of the decision of the Assembly on the petition.’

Basically, I am emphasizing the manner in which we have to deal with petitions. We are now old enough to know how but I would grant the 20 minutes allowable for contributions. There are those exceptional circumstances that I will grant time for contribution. Yes?

**Hon. Katela:** Mr. Speaker, Sir, as an active member of that committee, I first congratulate the chairperson and the members and the whole house for the assistance accorded to the committee. It was a difficult task and Mr. Speaker, I think the Chair is the final and the Standing Orders guide this House and as they guide us, we do not need to waste those 20 minutes doing what is not supposed to be done.

Fine it is good you are giving us the privilege to speak and at least to be heard in the House, but Mr. Speaker, Sir, I am reading the mood of the House and it is like everybody is behind you and is being guided by the Standing Order. Mr. Speaker, if possible put the question and we allow our brothers and sisters to get back to their work stations. Thank you, Mr. Speaker.

**Hon. Speaker:** Let me have Hon. Mueni.

**Hon. (Ms.) Mueni:** Mr. Speaker, Sir, the report is good, I support it for our sons to be taken back to work, but Mr. Speaker, Sir, it is very unfair for our sons. We are making them become thieves when we do not pay them---

*(Applause)*

It is very unfair and as you have said, we just say they go back to work and you know many of them were employed as dog-handlers so Mr. Speaker, Sir, I think you have to put the question and the boys go back to work because---

*(Applause)*

When they go back to work, they will also marry. You know our women there outside, when you do not have money, they cannot look at you. Thank you, Mr. Speaker, Sir.

*(Loud consultations)*

**Hon. Speaker:** The point of order is defeated by time. Yes, let us hear Hon. Nzoka.

**Hon. Nzoka:** Mr. Speaker, Sir, I support the report because when we were here last Mr. Speaker, you promised to advise on the matter in court. If you check recommendation number eight and what we have recommended that they be recalled to work and there is also that case which is pending in court, now after the outcome of the court and our recommendation, can you advise me on that?

**Hon. Speaker:** Hon. Nzoka you will be informed.

**Hon. Katela:** Mr. Speaker, I think the member who has just spoken is out of order because already Mr. Speaker has given the guidelines and he had already advised on what you are asking. I think, I am sorry but you might have been asleep.

**Hon. Speaker:** The report is in spirit with the matter in court so it is not in contradiction. Yes Hon. Chairman of justice and legal affairs committee.

**Hon. Itumo:** Mr. Speaker, I am one of those members who were at Naivasha and as per the report, I do not think there is any member in this House who has gone through the report and does not support this report, Mr. Speaker. We want our sons and daughters in this section of inspectorate to go back to their work. I have met the culprits and they are suffering, Mr. Speaker. When we meet these people asking for Kshs. 20 from us, it is like they are begging, Mr. Speaker. I think all of us in humanitarian heart are going to support the report in unison, Mr. Speaker.

**Hon. Speaker:** Let us finally hear the Hon. Majority Leader.

**Majority Leader (Hon. Mwonga):** Mr. Speaker, I want to start by congratulating the chairperson and the members of the *ad hoc* committee. On this, I am agreeing with all the Members. Let us adopt the report as it is. Thank you, Mr. Speaker.

**Hon. Speaker:** I think without much ado, I will give the mover a minute to give thanks before we put the question.

**Hon. (Ms.) Ndinda:** Mr. Speaker, Sir, I would like to appreciate and congratulate the Hon. Members in this House for considering and adopting this report because I know at least each one of us has been affected because the workers come from all the wards and it is our prayer, as Hon. Members, that we see everybody has been paid his dues and our workers are enjoying working with Machakos, county number one. Thank you, Mr. Speaker, Sir.

**Hon. Speaker:** Hon. Members, I proceed to put the question and before I put the question, I want to be reminded this is petition number? What is the number of the petition? Petition number 23?

*(Hon. Speaker consulted the clerk at the Table)*



**Hon. Speaker:** Those in support of the report presented pursuant to petition number 15 of 2016, that is the petition of this County Assembly.

*(Question put and agreed to)*

### **ADJOURNMENT**

**Hon. Speaker:** That is the business for this morning. We shall meet in the afternoon.

The House rose at 11.03 a.m.